

AMENDED IN SENATE JULY 6, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2225

Introduced by Assembly Member Perea

February 24, 2012

An act to amend Sections 9274, 30459.4, 32474, 40214, 41174, 43525, 45870, 46625, 50156.14, 55335, and 60633.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2225, as amended, Perea. State Board of Equalization: erroneous charges.

Existing law requires the State Board of Equalization to administer the Sales and Use Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Act, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, and Diesel Fuel Tax Law, and authorizes the board to undertake collection action on delinquent accounts, including issuing a levy or notice to withhold. Under existing sales and use tax laws, a taxpayer may file a claim with the board for reimbursement of bank charges or any other reasonable 3rd-party check charge fees incurred by the taxpayer as a direct result of an erroneous levy or notice to withhold by the board or erroneous processing or collection action, within 90 days of the date of the board action. Under the other laws, a taxpayer

may only file a claim for those charges or fees incurred as a direct result of an erroneous levy or notice to withhold.

This bill would extend to those other laws, the authorization for a taxpayer to also file a reimbursement claim with the board for bank charges and other reasonable 3rd-party check charge fees incurred as a direct result of an erroneous processing action or erroneous collection action by the board within 90 days of the board action. ~~This bill would also, under those other laws, allow the board to extend the 90-day filing period for reasonable cause.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9274 of the Revenue and Taxation Code
2 is amended to read:

3 9274. (a) A taxpayer may file a claim with the board for
4 reimbursement of bank charges and any other reasonable
5 third-party check charge fees incurred by the taxpayer as the direct
6 result of an erroneous levy or notice to withhold, erroneous
7 processing action, or erroneous collection action by the board.
8 Bank and third-party charges include a financial institution's or
9 third party's customary charge for complying with the levy or
10 notice to withhold instructions and reasonable charges for
11 overdrafts that are a direct consequence of the erroneous levy or
12 notice to withhold, erroneous processing action, or erroneous
13 collection action. The charges are those paid by the taxpayer and
14 not waived for reimbursement by the financial institution or third
15 party. Each claimant applying for reimbursement shall file a claim
16 with the board that shall be in a form as may be prescribed by the
17 board. In order for the board to grant a claim, the board shall
18 determine that both of the following conditions have been satisfied:
19 (1) The erroneous levy or notice to withhold was caused by
20 board error, erroneous processing action, or erroneous collection
21 action.

22 (2) Prior to the erroneous levy or notice to withhold, erroneous
23 processing action, or erroneous collection action, the taxpayer
24 responded to all contacts by the board and provided the board with
25 any requested information or documentation sufficient to establish

1 the taxpayer's position. This provision may be waived by the board
2 for reasonable cause.

3 (b) Claims pursuant to this section shall be filed within 90 days
4 from the date of the erroneous levy or notice to withhold, erroneous
5 processing action, or erroneous collection action. ~~This 90-day~~
6 ~~filing period may be extended by the board for reasonable cause.~~

7 Within 30 days from the date the claim is received, the board shall
8 respond to the claim. If the board denies the claim, the taxpayer
9 shall be notified in writing of the reason or reasons for the denial
10 of the claim.

11 SEC. 2. Section 30459.4 of the Revenue and Taxation Code
12 is amended to read:

13 30459.4. (a) A taxpayer may file a claim with the board for
14 reimbursement of bank charges and any other reasonable
15 third-party check charge fees incurred by the taxpayer as the direct
16 result of an erroneous levy or notice to withhold, erroneous
17 processing action, or erroneous collection action by the board.
18 Bank and third-party charges include a financial institution's or
19 third party's customary charge for complying with the levy or
20 notice to withhold instructions and reasonable charges for
21 overdrafts that are a direct consequence of the erroneous levy or
22 notice to withhold, erroneous processing action, or erroneous
23 collection action. The charges are those paid by the taxpayer and
24 not waived for reimbursement by the financial institution or third
25 party. Each claimant applying for reimbursement shall file a claim
26 with the board that shall be in a form as may be prescribed by the
27 board. In order for the board to grant a claim, the board shall
28 determine that both of the following conditions have been satisfied:

29 (1) The erroneous levy or notice to withhold, erroneous
30 processing action, or erroneous collection action was caused by
31 board error.

32 (2) Prior to the erroneous levy or notice to withhold, erroneous
33 processing action, or erroneous collection action, the taxpayer
34 responded to all contacts by the board and provided the board with
35 any requested information or documentation sufficient to establish
36 the taxpayer's position. This provision may be waived by the board
37 for reasonable cause.

38 (b) Claims pursuant to this section shall be filed within 90 days
39 from the date of the erroneous levy or notice to withhold, erroneous
40 processing action, or erroneous collection action. ~~This 90-day~~

~~filing period may be extended by the board for reasonable cause.~~
Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

SEC. 3. Section 32474 of the Revenue and Taxation Code is amended to read:

32474. (a) A taxpayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action by the board. Bank and third-party charges include a financial institution's or third party's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. The charges are those paid by the taxpayer and not waived for reimbursement by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action was caused by board error.

(2) Prior to the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. ~~This 90-day filing period may be extended by the board for reasonable cause.~~
Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

SEC. 4. Section 40214 of the Revenue and Taxation Code is amended to read:

40214. (a) A taxpayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action by the board. Bank and third-party charges include a financial institution's or third party's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. The charges are those paid by the taxpayer and not waived for reimbursement by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action was caused by board error.

(2) Prior to the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. ~~This 90-day filing period may be extended by the board for reasonable cause.~~ Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

SEC. 5. Section 41174 of the Revenue and Taxation Code is amended to read:

41174. (a) A taxpayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct

1 result of an erroneous levy or notice to withhold, erroneous
2 processing action, or erroneous collection action by the board.
3 Bank and third-party charges include a financial institution's or
4 third party's customary charge for complying with the levy or
5 notice to withhold instructions and reasonable charges for
6 overdrafts that are a direct consequence of the erroneous levy or
7 notice to withhold, erroneous processing action, or erroneous
8 collection action. The charges are those paid by the taxpayer and
9 not waived for reimbursement by the financial institution or third
10 party. Each claimant applying for reimbursement shall file a claim
11 with the board that shall be in a form as may be prescribed by the
12 board. In order for the board to grant a claim, the board shall
13 determine that both of the following conditions have been satisfied:

14 (1) The erroneous levy or notice to withhold, erroneous
15 processing action, or erroneous collection action was caused by
16 board error.

17 (2) Prior to the erroneous levy or notice to withhold, erroneous
18 processing action, or erroneous collection action, the taxpayer
19 responded to all contacts by the board and provided the board with
20 any requested information or documentation sufficient to establish
21 the taxpayer's position. This provision may be waived by the board
22 for reasonable cause.

23 (b) Claims pursuant to this section shall be filed within 90 days
24 from the date of the erroneous levy or notice to withhold, erroneous
25 processing action, or erroneous collection action. ~~This 90-day~~
26 ~~filing period may be extended by the board for reasonable cause.~~
27 Within 30 days from the date the claim is received, the board shall
28 respond to the claim. If the board denies the claim, the taxpayer
29 shall be notified in writing of the reason or reasons for the denial
30 of the claim.

31 SEC. 6. Section 43525 of the Revenue and Taxation Code is
32 amended to read:

33 43525. (a) A taxpayer may file a claim with the board for
34 reimbursement of bank charges and any other reasonable
35 third-party check charge fees incurred by the taxpayer as the direct
36 result of an erroneous levy or notice to withhold, erroneous
37 processing action, or erroneous collection action by the board.
38 Bank and third-party charges include a financial institution's or
39 third party's customary charge for complying with the levy or
40 notice to withhold instructions and reasonable charges for

1 overdrafts that are a direct consequence of the erroneous levy or
2 notice to withhold, erroneous processing action, or erroneous
3 collection action. The charges are those paid by the taxpayer and
4 not waived for reimbursement by the financial institution or third
5 party. Each claimant applying for reimbursement shall file a claim
6 with the board that shall be in a form as may be prescribed by the
7 board. In order for the board to grant a claim, the board shall
8 determine that both of the following conditions have been satisfied:

9 (1) The erroneous levy or notice to withhold, erroneous
10 processing action, or erroneous collection action was caused by
11 board error.

12 (2) Prior to the erroneous levy or notice to withhold, erroneous
13 processing action, or erroneous collection action, the taxpayer
14 responded to all contacts by the board and provided the board with
15 any requested information or documentation sufficient to establish
16 the taxpayer's position. This provision may be waived by the board
17 for reasonable cause.

18 (b) Claims pursuant to this section shall be filed within 90 days
19 from the date of the erroneous levy or notice to withhold, erroneous
20 processing action, or erroneous collection action. ~~This 90-day~~
21 ~~filing period may be extended by the board for reasonable cause.~~
22 Within 30 days from the date the claim is received, the board shall
23 respond to the claim. If the board denies the claim, the taxpayer
24 shall be notified in writing of the reason or reasons for the denial
25 of the claim.

26 SEC. 7. Section 45870 of the Revenue and Taxation Code is
27 amended to read:

28 45870. (a) A feepayer may file a claim with the board for
29 reimbursement of bank charges and any other reasonable
30 third-party check charge fees incurred by the taxpayer as the direct
31 result of an erroneous levy or notice to withhold, erroneous
32 processing action, or erroneous collection action by the board.
33 Bank and third-party charges include a financial institution's or
34 third party's customary charge for complying with the levy or
35 notice to withhold instructions and reasonable charges for
36 overdrafts that are a direct consequence of the erroneous levy or
37 notice to withhold, erroneous processing action, or erroneous
38 collection action. The charges are those paid by the feepayer and
39 not waived for reimbursement by the financial institution or third
40 party. Each claimant applying for reimbursement shall file a claim

1 with the board that shall be in a form as may be prescribed by the
2 board. In order for the board to grant a claim, the board shall
3 determine that both of the following conditions have been satisfied:

4 (1) The erroneous levy or notice to withhold, erroneous
5 processing action, or erroneous collection action was caused by
6 board error.

7 (2) Prior to the erroneous levy or notice to withhold, erroneous
8 processing action, or erroneous collection action, the feepayer
9 responded to all contacts by the board and provided the board with
10 any requested information or documentation sufficient to establish
11 the feepayer's position. This provision may be waived by the board
12 for reasonable cause.

13 (b) Claims pursuant to this section shall be filed within 90 days
14 from the date of the erroneous levy or notice to withhold, erroneous
15 processing action, or erroneous collection action. ~~This 90-day~~
16 ~~filing period may be extended by the board for reasonable cause.~~
17 Within 30 days from the date the claim is received, the board shall
18 respond to the claim. If the board denies the claim, the feepayer
19 shall be notified in writing of the reason or reasons for the denial
20 of the claim.

21 SEC. 8. Section 46625 of the Revenue and Taxation Code is
22 amended to read:

23 46625. (a) A feepayer may file a claim with the board for
24 reimbursement of bank charges and any other reasonable
25 third-party check charge fees that are incurred by the feepayer as
26 the direct result of an erroneous levy or notice to withhold,
27 erroneous processing action, or erroneous collection action by the
28 board. Bank and third-party charges include a financial institution's
29 or third party's customary charge for complying with either a levy
30 or instructions in a notice to withhold, and reasonable charges for
31 overdrafts that are a direct consequence of the erroneous levy or
32 notice to withhold, erroneous processing action, or erroneous
33 collection action. Bank charges include only those charges that
34 are paid by the feepayer and not waived for reimbursement by the
35 financial institution or third party. Each claimant applying for
36 reimbursement pursuant to this section shall file a claim with the
37 board that shall be in the form as may be prescribed by the board.
38 The board shall not grant a claim unless it determines that both of
39 the following conditions have been satisfied:

1 (1) The erroneous levy or notice to withhold, erroneous
2 processing action, or erroneous collection action resulted from
3 board error.

4 (2) Prior to the erroneous levy or notice to withhold, erroneous
5 processing action, or erroneous collection action, the feepayer
6 responded to all contacts by the board and provided the board with
7 any requested information or documentation that was sufficient to
8 establish the feepayer's position. The requirement of this paragraph
9 may be waived by the board for reasonable cause.

10 (b) Claims pursuant to this section shall be filed within 90 days
11 from the date of the erroneous levy or notice to withhold, erroneous
12 processing action, or erroneous collection action. ~~This 90-day~~
13 ~~filing period may be extended by the board for reasonable cause.~~
14 The board shall respond to a claim filed pursuant to this section
15 within 30 days of receipt. If the board denies a claim, the taxpayer
16 shall be notified in writing of the reason or reasons for denial.

17 SEC. 9. Section 50156.14 of the Revenue and Taxation Code
18 is amended to read:

19 50156.14. (a) A feepayer may file a claim with the board for
20 reimbursement of bank charges and any other reasonable
21 third-party check charge fees incurred by the taxpayer as the direct
22 result of an erroneous levy or notice to withhold, erroneous
23 processing action, or erroneous collection action by the board.
24 Bank and third-party charges include a financial institution's or
25 third party's customary charge for complying with the levy or
26 notice to withhold instructions and reasonable charges for
27 overdrafts that are a direct consequence of the erroneous levy or
28 notice to withhold, erroneous processing action, or erroneous
29 collection action. The charges are those paid to the feepayer and
30 not waived for reimbursement by the financial institution or third
31 party. Each claimant applying for reimbursement shall file a claim
32 with the board that shall be in a form as may be prescribed by the
33 board. In order for the board to grant a claim, the board shall
34 determine that both of the following conditions have been satisfied:

35 (1) The erroneous levy or notice to withhold, erroneous
36 processing action, or erroneous collection action was caused by
37 board error.

38 (2) Prior to the erroneous levy or notice to withhold, erroneous
39 processing action, or erroneous collection action, the feepayer
40 responded to all contacts by the board and provided the board with

1 any requested information or documentation sufficient to establish
2 the feepayer's position. This provision may be waived by the board
3 for reasonable cause.

4 (b) Claims pursuant to this section shall be filed within 90 days
5 from the date of the erroneous levy or notice to withhold, erroneous
6 processing action, or erroneous collection action. ~~This 90-day~~
7 ~~filing period may be extended by the board for reasonable cause.~~
8 Within 30 days from the date the claim is received, the board shall
9 respond to the claim. If the board denies the claim, the feepayer
10 shall be notified in writing of the reason or reasons for the denial
11 of the claim.

12 SEC. 10. Section 55335 of the Revenue and Taxation Code is
13 amended to read:

14 55335. (a) A taxpayer may file a claim with the board for
15 reimbursement of bank charges and any other reasonable
16 third-party check charge fees incurred by the taxpayer as the direct
17 result of an erroneous levy or notice to withhold, erroneous
18 processing action, or erroneous collection action by the board.
19 Bank and third-party charges include a financial institution's or
20 third party's customary charge for complying with the levy or
21 notice to withhold instructions and reasonable charges for
22 overdrafts that are a direct consequence of the erroneous levy or
23 notice to withhold, erroneous processing action, or erroneous
24 collection action. The charges are those paid by the taxpayer and
25 not waived for reimbursement by the financial institution or third
26 party. Each claimant applying for reimbursement shall file a claim
27 with the board that shall be in a form as may be prescribed by the
28 board. In order for the board to grant a claim, the board shall
29 determine that both of the following conditions have been satisfied:

30 (1) The erroneous levy or notice to withhold, erroneous
31 processing action, or erroneous collection action was caused by
32 board error.

33 (2) Prior to the erroneous levy or notice to withhold, erroneous
34 processing action, or erroneous collection action, the taxpayer
35 responded to all contacts by the board and provided the board with
36 any requested information or documentation sufficient to establish
37 the taxpayer's position. This provision may be waived by the board
38 for reasonable cause.

39 (b) Claims pursuant to this section shall be filed within 90 days
40 from the date of the erroneous levy or notice to withhold, erroneous

1 processing action, or erroneous collection action. ~~This 90-day~~
2 ~~filing period may be extended by the board for reasonable cause.~~
3 Within 30 days from the date the claim is received, the board shall
4 respond to the claim. If the board denies the claim, the taxpayer
5 shall be notified in writing of the reason or reasons for the denial
6 of the claim.

7 SEC. 11. Section 60633.1 of the Revenue and Taxation Code
8 is amended to read:

9 60633.1. (a) A taxpayer may file a claim with the board for
10 reimbursement of bank charges and any other reasonable
11 third-party check charge fees incurred by the taxpayer as the direct
12 result of an erroneous levy or notice to withhold, erroneous
13 processing action, or erroneous collection action by the board.
14 Bank and third-party charges include a financial institution's or
15 third party's customary charge for complying with the levy or
16 notice to withhold instructions and reasonable charges for
17 overdrafts that are a direct consequence of the erroneous levy or
18 notice to withhold, erroneous processing action, or erroneous
19 collection action. The charges are those paid by the taxpayer and
20 not waived for reimbursement by the financial institution or third
21 party. Each claimant applying for reimbursement shall file a claim
22 with the board that shall be in a form as may be prescribed by the
23 board. In order for the board to grant a claim, the board shall
24 determine that both of the following conditions have been satisfied:

25 (1) The erroneous levy or notice to withhold, erroneous
26 processing action, or erroneous collection action was caused by
27 board error.

28 (2) Prior to the erroneous levy or notice to withhold, erroneous
29 processing action, or erroneous collection action, the taxpayer
30 responded to all contacts by the board and provided the board with
31 any requested information or documentation sufficient to establish
32 the taxpayer's position. This provision may be waived by the board
33 for reasonable cause.

34 (b) Claims pursuant to this section shall be filed within 90 days
35 from the date of the erroneous levy or notice to withhold, erroneous
36 processing action, or erroneous collection action. ~~This 90-day~~
37 ~~filing period may be extended by the board for reasonable cause.~~
38 Within 30 days from the date the claim is received, the board shall
39 respond to the claim. If the board denies the claim, the taxpayer

- 1 shall be notified in writing of the reason or reasons for the denial
- 2 of the claim.

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